

2005 REPORT OF THE DIVISION OF STATE COURT ADMINISTRATION

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2005 Report of the Division of State Court Administration

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The mission of the Indiana Supreme Court Division of State Court Administration (“the Division”) is to assist the Chief Justice and Indiana Supreme Court in their leadership role as the administrators and managers of Indiana’s judicial system, its courts, officers and related offices and programs. In particular, the Division examines and recommends improvements in the methods, procedures and administrative systems used by the courts, other offices related to and serving the courts and the clerks of court. It collects and reports information on the judicial workload of all trial and appellate courts, the receipt and expenditure of funds by all the courts and their related offices, and generally the volume, condition and type of business conducted by the courts. It

helps the Chief Justice and Supreme Court manage and regulate judicial workloads, manage and distribute state funding provided for the operation of the courts and related offices, certify and regulate court programs and initiatives, promulgate and implement rules and procedures, and provide technology and automation to the courts. The Division provides staff support to the Indiana Commission on Judicial Qualifications and Judicial Nominating Commission, other commissions and committees as specified by statute and court rule, and fulfills specific duties charged by statutes, Supreme Court rules and directives.

Following is a report on the continuing and new functions and accomplishments of the Division.

Trial Court Management

1) Judicial Service Reports

One core responsibility of the Division is the collection of statistical information concerning the operation of Indiana’s courts and their offices. Pursuant to I.C. § 33-24-6-3 and Indiana Supreme Court Administrative Rules 1 and 2, the Division collects and publishes information on the caseload and fiscal activities of all courts and probation offices throughout the state. This data is published annually in The Indiana Judicial Service Report and The Indiana Probation Report. This data provides the empirical basis for policy

decisions by both the Indiana Supreme Court and the Indiana General Assembly, and also provides important management information for individual courts.

2) Weighted Caseload Measures and Caseload Redistribution Plans

Since the mid 1990’s, the Division has employed a weighted caseload (WCL) measurement system to analyze the statistical caseload data collected from the courts and report on judicial resource needs. Each year, the Division publishes a Weighted Caseload Report

that provides a uniform, statewide method for comparing trial court caseload. The system was first developed in 1993-1994 by a committee of the Indiana Judicial Conference and the Division, with the help of a consultant with nationally recognized expertise in weighted caseload measurement systems. The system was updated in 2002 and is again undergoing an update and revalidation. Indiana's caseload measurement system is based on time studies and actual case file audits and ascribes relative "weights" or "counts" to the different types of cases.

Presently, the Indiana Supreme Court has defined 35 different case types. Without a weighted system, each of these case types, whether murders or infractions, would receive a weight or count of "one." A WCL system provides a relative comparison between the different case types and allows courts and court policy makers to determine the sort of resources that would be necessary to handle the courts' caseloads.

The original WCL study involved more than 200 judicial officers who maintained time sheets for specific periods. During the first phase of the study, the committee developed a list of specific case actions that occur before, during and after a case, such as prejudgment hearings, trial preparation, plea/admissions, bench trials, settlements, jury trials, opinions, orders, sentencing, post judgment hearings (for example, probation revocations, petitions for support and custody modifications) and research. The participating judicial officers then maintained time sheets detailing how much time each of these particular actions required. The third phase

involved the audit of thousands of randomly selected case files, some already closed for many years, and others still active. This audit revealed how frequently each of the specific case actions occurred in a particular case type. The consultant then analyzed this data to determine the statewide average of how frequently these actions occurred in particular case types and how long they took. The analysis resulted in the establishment of a relative time, in minutes, for handling each of the 36 case types.

The committee also derived an average number of minutes available to every judicial officer in a calendar year for handling case-related activities. This number was derived by deducting time from the average 40-hour workweek for events or obligations that reduce the available time to work on cases, such as vacations, illness, administrative responsibilities, education, community activities, and public outreach.

The WCL system is used to evaluate new filings only. It allows courts to forecast the amount of judicial time that would be necessary to process the cases being filed in a particular court or county.

Because the WCL system is based on statewide averages, it is important to recognize that it encompasses cases that are dismissed before any action is ever taken by a court, cases that are settled, cases that are reopened numerous times, and cases that require two weeks to try. In addition, averages do not reflect specific local differences that may affect a particular county or court.

In order to assist policy makers in accurately assessing a county's need for additional judicial officers, the Division also publishes a report on the

relative severity of judicial resource need. The WCL system provides a tool for assessing the need for additional judges based on the number of cases being filed in a county. The “relative severity of need” concept provides a relative comparison of the need for new judges in each county.

This concept is best illustrated by an example. If the report indicates that County A and County B each need 2 additional judges, it may seem that their need is identical. Because of the number of judges already working in a county, however, the severity of the need may vary significantly. If County A already has 10 judges and needs 2 judges, it means that each of the 10 judges has to carry an additional .20 % caseload. On the other hand, if County B only has 2 judges and needs 2 more, it means that each of its existing judges is already handling 200% caseload. Obviously, the “relative severity” of County B’s need for new judges is far greater than the need of County A.

The Weighted Caseload Measures report appears in Volume I, and also is available at www.in.gov/judiciary/admin/courtmgmt.

3) Access to Court Records and Requests for Bulk Distribution of Court Records

The start of 2005 brought into effect new Supreme Court rule provisions governing access to court records. During 2004 the Supreme Court extensively amended Administrative Rule 9. The new rule was the product of a task force appointed by the Court in January 2003 and chaired by Associate Supreme Court Justice Brent Dickson. The task force consisted of nearly thirty members, including judges, clerks,

private attorneys, victim’s advocates, representatives of other state offices such as the Attorney General, prosecutors and public defenders, other organizations such as the Indiana Civil Liberties Union, and media representatives. After receiving the proposal from the task force, the Supreme Court posted and accepted public comment for sixty days before finalizing the proposal and adopting it to be effective January 1, 2005.

Administrative Rule 9 governs all case and administrative court records maintained and generated by every court and court agency in the state court system. The most novel concept in the rule is the requirement that information not subject to public access be filed on green paper.

Division staff devoted the first six months of the year to educating trial judges, their staffs, practitioners and the public on the requirements and practical application of the rule. This was accomplished through education sessions via electronic conference facilities and numerous local presentations. Staff also developed and posted on the judicial website a handbook that addresses the more frequently asked questions.

Another significant provision in the rule charges that the Division review and grant or deny requests for bulk court information. Administrative Rule 9 defines “bulk distribution” as “the distribution of all, or a significant subset of the information in court records in electronic form, as is, and without modification or compilation.” This duty also requires the development and execution of a user agreement between the Division and the requesting party. During 2005, the Division received

twelve requests for bulk records and executed the requisite user agreements with six of the requesters in 2006. A list of the approved bulk records requesters may be found at www.in.gov/judiciary/admin/courtmgmt/bulk-data/.

Education about and assistance with the application of the provisions of Administrative Rule 9 on public access to court records continues to be a significant Division function.

4) Deployment of Trial Court Information on the Internet

Rapid advancements in technology and the efficiency it affords have prompted some of Indiana's courts to seek ways to post docket information on the Internet. In an effort to both encourage and ensure that only public court information is deployed, and deployed appropriately, the Court promulgated Trial Rule 77(K). This rule provides that before any court or clerk deploys any court information on the Internet, it must seek and receive authorization from the Division.

During 2005, Division staff amended the approval process and reviewed and approved numerous such requests. The list of approved counties can be viewed at www.in.gov/judiciary/trialcourts/tr77-approval.html.

The Division's Judicial Technology and Automation Committee (JTAC) staff, which is responsible for the development and maintenance of the Indiana Judicial website, developed individual web pages for each of Indiana's counties, listing contact information for all clerks and courts. The county websites also contain other useful information such as the local

court rules, directions to the county courts and photographs of the often architecturally unique courthouses. The local websites are listed at www.in.gov/judiciary/trialcourts/.

5) State Office of Guardian Ad Litem/ Court Appointed Special Advocate

In 1989, the Indiana General Assembly established an office of Guardian Ad Litem and Court Appointed Special Advocate ("GAL/CASA") within the Division of State Court Administration. Through this program, counties are encouraged to provide appropriate GAL/CASA services by receiving matching state funding administered by the Division and disbursed pursuant to a statutory formula. In addition, the State Office of GAL/CASA ("State Office") provides training and support services for local GAL/CASA programs.

Seventy-four of Indiana's 92 counties applied for state GAL/CASA funds in 2005. Sixty-five counties in Indiana funded a volunteer-based GAL/CASA program, staffed by 138 paid personnel. Of the 65 counties with volunteer-based programs, 32 counties had court-based programs, 22 counties had programs that were separate non-profit entities, and 9 counties had programs that were operated under the umbrella of another non-profit entity. The remaining 29 counties appointed either attorney GALs or utilized other, paid GALs. GAL/CASA volunteers donated an estimated 511,273 hours in 2005. If the contribution of GAL/CASA volunteers is calculated using the rate customarily paid to non-volunteer appointed GALs (\$50.00 hourly), the volunteers contributed an estimated \$25.6 million to the State of Indiana in 2005.

In early 2006, the State Office collected data and compiled statistics for its 2005 annual report. From the information gathered, the State Office determined that there were at least 1,940 active GAL/CASA volunteers statewide in 2005, including 542 newly trained volunteers. GAL/CASA volunteers advocated for 16,199 children involving 15,029 cases in 2005. Even so, there were at least 4,226 children still waiting for a GAL/CASA volunteer to be appointed to their cases at the end of 2005.

On September 16, 2005, the State Office held its annual meeting for GAL/CASA directors and staff, and on September 17, the State Office sponsored the Ninth Annual Indiana State GAL/CASA Conference. Over 400 GAL/CASA volunteers, local program directors, service providers, board members, child welfare personnel and local program staff attended the annual CASA conference.

The State Office also held a two-day new directors' training in 2005, focusing on the skills required for managing a quality volunteer advocacy program. The State Office conducted numerous other training sessions for GAL/CASA program directors, staff and volunteers, and attended volunteer recognition ceremonies.

In 2002, the State Office and the Advisory Commission decided that Indiana GAL/CASA programs would support the National CASA Association's quality assurance initiative. Through this initiative, each GAL/CASA program demonstrated compliance with national standards. At the end of 2005, 44 of Indiana's 65 counties with programs had successfully

become members of the National CASA Association.

In 2005, the Indiana General Assembly amended the statute regarding GAL/CASA matching funds. The amended statute requires that GAL/CASA programs be certified by the Supreme Court to be eligible for matching funds. The Indiana General Assembly also passed legislation in 2005 requiring the appointment of a GAL/CASA for every child in every Child in Need of Services, or "CHINS," case. The new requirement has created significant challenges for GAL/CASA programs and the judiciary. Additional volunteers and funding are desperately needed in underserved and un-served areas across Indiana.

The State Office, local GAL/CASA programs, the judiciary, and local governments and communities are working together to try to recruit additional volunteers and increase funding to meet the tremendous need for advocacy for every abused and neglected child.

6) The Family Court Project

With funding first provided by the Indiana Legislature in 2000, the Indiana Supreme Court directed the Division to help it launch the Indiana Family Court Project. The purpose of the project is the development of effective models for coordinating the multiple cases of families involved in the judicial process. This is a state grant program, which provides funds to courts that develop methods to share information and coordinate the diverse cases facing the same family. Each family court project requires the committed involvement of the local judiciary, family law bar and

community program leaders and service providers. As of the printing of this report, 23 counties are participating in the program as part of 13 single and regional family court projects.

Every two years the Supreme Court selects new applicants to join the Indiana Family Court project. In addition to receiving grant funds, the projects receive assistance from a family court consultant under the direction of the Division of State Court Administration. Although limited funding beyond the first two years is available to help counties transition to local government and grant resources, the family court project grants are essentially seed grants. The family court project judges and staff members meet annually and share information and best practices throughout the year.

In 2005, the Division concluded the preparations for the Phase IV projects, which started operations in 2006. As of the time of printing of this report, these three new family court projects joined the program, for a total of 16 programs statewide. St. Joseph and Allen Counties instituted individual projects while four rural Indiana Counties (Martin, Orange, Crawford and Pike) joined forces to form a single regional project. The Division continues to help the Supreme Court lead this unique effort.

7) Approval of Local Alternative Dispute Resolution Plans for Domestic Relations Cases

A 2003 amendment to the Administrative Rules charged the Division with approving local plans for alternative dispute resolution (local ADR plans) created pursuant to statute, I.C. §

33-23-6-1 et. seq. The statute was modeled after a pilot program first implemented in Allen County by Judge Thomas Felts. The statute, which also became effective in 2003, allows counties to charge an additional \$20 to all parties filing petitions for legal separation, paternity, or dissolution of marriage, and to deposit this money into a special fund. The fund must be used to foster alternative dispute resolution, mediation, reconciliation, non-binding arbitration, and parental counseling in domestic relations cases. Additionally, the fund must primarily benefit litigants who have the least ability to pay. Parties referred to services covered by the fund may be required to make a co-payment in an amount the court determines, based on the litigant's ability to pay.

To participate in this ADR program, the judges in a county must develop a plan consistent with the statute, submit it to the Judicial Conference of Indiana, and, pursuant to Rule 1.11 of the Rules for Alternative Dispute Resolution, be approved by the Executive Director of the Division. Division staff works with the courts to help them develop their ADR plans pursuant to guidelines developed by the Domestic Relations Committee of the Judicial Conference.

ADR programs provide an opportunity for parties involved in divorce and paternity litigation to mediate their dispute when their economic circumstances might otherwise preclude this. In addition to mediation, other programs offered through ADR plans include parenting education classes, counseling programs focused on co-parenting and conflict resolution, document preparation for *pro se* litigants, and intensive home case management for high conflict cases

involving children. The benefits of these programs are manifold: mediation resolves issues much more quickly and efficiently, and saves a tremendous amount of court time, especially for *pro se* parties. Mediation also reduces the hostility of litigants and provides them with a model for resolving disputes on their own. Parenting classes and counseling help parents reduce their conflicts and maintain a more positive parenting relationship for the sake of their children.

Thus far, the Division has approved ADR plans for 18 counties (Allen, Boone, Brown, Clark, Henry, Jackson, Lake, Lawrence, Marion, Monroe, Montgomery, Owen, Perry, Porter, Putnam, Shelby, Starke and Tippecanoe) and is helping several more through the process. Many of these programs are fairly new, so available data is limited. Counties such as Allen, that have had an ADR plan in place for some time, however, have reported that a majority of mediated cases are getting resolved. Also, a total of 1,252 children were affected by the ADR fund plans in 2004 and 1,160 children in 2005. Sixty-three percent of the cases accepted under ADR Fund Plans in 2005 comprised dissolutions involving children.

8) Electronic Filing and Electronic Service Pilot Projects

In an effort to encourage advancements in trial court technology, the Supreme Court promulgated Administrative Rule 16, which provides guidance to courts seeking to implement systems for electronic filing. The Rule also charges the Division with developing the necessary factors for an e-filing system and reviewing and

approving plans for pilot e-filing systems. Courts interested in implementing pilot e-filing systems must submit to the Division proposed plans. Since the Rule was adopted, the Division has endeavored to define those elements that are generally considered to be necessary for compliance with the Supreme Court Rules of Court. Pilot projects of this nature involve various issues, including compatibility with not only existing case management systems but also a planned statewide system; fees; document retention; case types included; security; accessibility by self-represented litigants; software and hardware necessary for implementation; and proof of service.

It is anticipated that the Division will disseminate an appendix containing the necessary elements to Administrative Rule 16 in late 2006 or early 2007. The Division has worked closely with Justice Brent Dickson and JTAC in developing the appendix. The goal is to outline the critical elements implicated by the Supreme Court Rules, without making the elements too restricted for application. The Division also anticipates creating or adapting a model plan for use by future applying courts.

A few courts have already submitted either proposed plans or inquiries regarding pilot projects for various case types. The Division's goal is to promote the pilot projects in light of the defined elements working with the courts to make the pilot projects successful.

9) Pro Bono Domestic Relations Mediation Training

During 2005 the Division helped the Indiana Supreme Court sponsor a unique and innovative Pro Bono

Domestic Relations Mediation Training. The weeklong session was offered through the cooperative effort of the Supreme Court, the Pro Bono Commission, the Commission for Continuing Legal Education, the Division of State Court Administration, and the Family Law Project. Indiana University School of Law – Indianapolis hosted the event. The Supreme Court provided the training free of charge to 32 attorneys who agreed to provide free mediation in family law cases over a two-year period. In exchange, the 40-hour domestic relations mediation training qualified the 32 participants as registered family law mediators.

10) Information/ Records Management – Supreme Court Records Management Committee

The Information Records Management section of the Division assists trial court clerks and judges in meeting the requirements of the Indiana Supreme Court Administrative Rules and trial rules governing court records. The administrative rules set standards for records creation, maintenance, access, and disposal while Trial Rule 77 in particular provides requirements for case files, indexes, chronological case summaries (CCS), and records of judgments and orders (RJO).

In 2005, Information Management staff made 45 visits to 24 different counties to review microfilming programs for compliance with Administrative Rule 6, the application of court retention schedules, and the use of optical imaging for judicial records. Staff continued working with Vigo County on their image recording process, and approved scanned imaging systems in Allen, Boone, Miami,

Sullivan, and Wabash counties. In addition, staff made presentations at the Association of Clerks of Circuit Courts of Indiana regional meetings, and to city and town judges. The greatest need for assistance in 2005 involved questions about Administrative Rule 9, which deals with Access to Court Records. During the first six weeks of the year, staff fielded over 400 telephone and e-mail questions. In addition, staff participated in or conducted a number of field workshops for trial court judges, clerks, and attorneys throughout the state. Questions regarding A.R. 9 continued for the first six months in 2005.

The Supreme Court's Records Management Committee, for which the Information Management section provides staff support, held meetings on April 29 and November 4.

Information Management personnel also continued working with the Genealogical Society of Utah and the Indiana Commission on Public Records in microfilming trial court records. In December, the section director produced a video with the cooperation of the Allen County Public Library on how to inventory court records in preparation for microfilming. The video is expected to reduce travel for the section.

11) Certified Court Interpreter Program

Following the study of language and cultural barriers in Indiana courts, the Indiana Supreme Court Commission on Race and Gender Fairness made an interim recommendation to the Supreme Court to develop a certified court interpreter program for Indiana. In

response, the Supreme Court authorized the Executive Director of the Division of State Court Administration to join with the National Center for State Courts to implement an Indiana court interpreter testing system. Indiana's Court Interpreter Certification Program was officially launched in January 2003.

The Court adopted a five-part process for foreign language interpreter certification. The process starts with a two-day orientation instructing candidates on judicial procedure, protocol and courtroom decorum; the role of an interpreter; ethical issues; skills and modes of interpreting; and terminology. Indiana-specific laws and rules are presented at orientation. Candidates also may practice interpreting skills and receive feedback from instructors.

The second phase is a written exam, comprised of two components. The first component, a multiple choice exam in English, tests candidates on general English language vocabulary, court-related terms and usage, common English idioms, and court interpreter ethics and professional conduct. Candidates must receive at least a score of 80 percent to go on to the next phase. The second component requires candidates to translate several sentences with legal terms from English into Spanish. Currently, this portion of the written exam is utilized only to provide candidates with feedback about their performance.

The third phase of the certification process is a two-day skills building workshop in which candidates practice skills for various interpreting scenarios and are given constructive feedback by instructors. Once a candidate completes the skills building workshop,

the candidate is eligible to take the oral foreign language proficiency examination. The oral exam covers the following modes of interpretation: sight translation, consecutive interpreting and simultaneous interpreting. Candidates must score at least 70 percent on all three sections in order to pass. Finally, a candidate must successfully undergo a criminal background check before becoming certified by the Indiana Supreme Court.

To date, Indiana has tested in only the Spanish language. The first class of candidates began the certification process in October 2003 and completed all phases of the program by March 2004. Because of the rigorous nature of the program, only two candidates out of the original thirty-one students comprising the first class passed all phases of the program in March 2004. Since that time, however, Indiana has successfully conducted five interpreter sessions and increased the pool of certified interpreters to twenty in the state.

In March 2005, the Supreme Court conducted a swearing-in ceremony to honor the individuals from the first and second classes who passed the certification process. Chief Justice Shepard served as master of ceremonies, delivering the oath to the interpreters in Spanish. A swearing-in ceremony to honor successful candidates from the third, fourth, and fifth classes was conducted on August 10, 2006. Session six of the Indiana Court Interpreter Certification Program began on May 4, 2006.

12) Protection Order Proceedings

The Indiana General Assembly has charged the Division with the responsibility for designing or updating the forms used in protection order proceedings. To fulfill this duty, the Division staff has since 2000 been working closely with the Indiana Judicial Conference Protection Order Committee. The committee explores ways to improve the protection order process.

Division and Judicial Center staff helped the committee develop a comprehensive set of forms that fall into three main categories: (1) protective orders, (2) no-contact orders, and (3) workplace violence restraining orders. All of the forms are located on the Protection Order Forms web site maintained by the Division.

During 2005, Division staff assisted the committee in its three major projects: (1) developing a set of best practices to be integrated into a Protection Order Deskbook; (2) working with the Indiana State Police to improve the statewide protection order registry; and (3) designing new forms and modifying existing forms.

In 2005, the Committee received the results of a survey that had been distributed to trial court judges and magistrates in late 2004. The survey results have been used in the development of the best practices that will be integrated into the Protection Order Deskbook.

13) Continuity of Operations Planning for the Trial Courts

Sparked by concerns for the continued operation of judicial institution

in the aftermath of natural or other disasters, the Chief Justice charged the Division to work with the Judicial Conference Court Management Committee and help Indiana's trial courts plan for disasters. The committee, with assistance from the Division, began the process of helping Indiana's trial courts prepare for interruptions in their operations caused by natural disasters, human malevolence or infectious outbreaks of disease. Plans to address these situations are commonly known as "COOPs" (Continuity of Operations Plans). Rather than presenting the trial courts with a completed plan, the Court Management Committee designed a template from which the trial courts can develop their own plans.

COOP development requires that each court first identify those operations that must continue and then determine what personnel, facilities, equipment and communication tools are essential to performing those functions. The trial courts are in the best position to conduct this analysis. The intent is to assist the courts in their disaster planning and in obtaining alternative resources before disaster strikes.

Since it is critical that courts give priority to the administration of justice in their analysis, part of this project has been to determine how to work within the needs of the justice system and, if that proves unwieldy or impossible, whether to recommend changes to the law and/or court rules.

The Committee produced a judiciary pandemic preparedness plan template; an Indiana Emergency Response Plan template; and proposed Administrative Rules 17 and 14(A)(4) to address temporary suspension of litigation and

filing deadlines if the emergency is deemed to warrant suspension.

The Committee presented these materials (in draft form) and the work of the Committee at the annual Judicial Conference on September 14, 2006. The Division plans to continue this important work and seek funds for qualified staff that would work with the trial courts to prepare their individual plans.

14) Deskbook for Appointed Judicial Officers

During 2005, Division and Judicial Center staff undertook a joint project assigned to them by the Chief Justice. After numerous questions and requests for a more standardized personnel policy for appointed judicial officers (magistrates, commissioners and

referees), the Chief Justice convened a special task force to develop a standard personnel policy and to update a 1998 Deskbook for such officers.

The task force, headed by Senior Judge Richard Payne and assisted by Division and Judicial Center staff, began its deliberations in 2005. It was comprised of experienced judges and appointed officers from diverse county sizes and geographical areas around the state. As of the printing of this report, the task force has completed its task and produced a 2006 Edition of the Judicial Officer's Deskbook. The Deskbook will serve as a resource for magistrates, commissioners, referees, temporary judges, senior judges and judges *pro tempore* regarding enabling legislation, scope of authority and benefit information.

Court Services

1) Accounts Management, Payroll and Claims, Judicial Benefits Coordination

The Division maintains and administers 19 accounts, totaling approximately \$98 million. This fiscal responsibility includes the administration of payroll and benefit programs for all state trial court judges, prosecuting attorneys, and other judicial officials paid with state funds. The annual payroll accounts for these purposes total approximately \$64 million, and cover approximately 700 individuals. As part of this "paymaster" function, the Division processes and pays more than 1,200 claims per year for special and senior judge services.

During 2005, the Division conducted numerous education sessions, usually in conjunction with the annual Indiana Judicial Conference, regarding judicial benefits, retirement, and payroll. The Division also updated and published, pursuant to Administrative Rule 5 (A), a schedule for payment of Senior Judges. The Division continued its efforts to inform its constituents about the payroll and benefits process, and to assist individuals in navigating the employee benefits open enrollment program.

2) Special Judges, Attorney Discipline and Employment Law Advice

The Supreme Court and the Chief Justice assign the majority of the legal responsibilities of the Division. The Division legal staff serves as counsel to the Supreme Court in matters involving attorney discipline and requests for the appointment of special judges, special masters, and senior judges. In 2005, the Division legal staff assisted the Supreme Court in disposing of 112 disciplinary matters. As part of its disciplinary function, the Division staff conducts preliminary investigations of disciplinary grievances filed against members and staff of the Indiana Supreme Court Disciplinary Commission and attorneys who are serving as hearing officers in disciplinary cases.

Supreme Court rules governing the method of special judge selection call for the establishment of local rules for such selection and certification to the Supreme Court in certain circumstances. The Division monitors local rules establishing plans for special judge selection and processes requests for the appointment of special judges by the Supreme Court. In 2005, the Division received 139 new requests for special judge appointments.

Various federal and state laws, rules and regulations, as well as U.S. Supreme Court decisions affect the administrative responsibilities of trial judges. Since 1996, a Division attorney provides advice and assistance to trial judges on employment law issues relating to the court's employees. This function also includes training for judges and their staff on a wide variety of issues such as sexual harassment awareness, the Americans with Disabilities Act, the Family and Medical

Leave Act, the Fair Labor Standards Act, effectively disciplining and terminating problem employees, effective use of policies, drug testing, and appropriate business conduct for court employees.

Since 2000, a Division legal staff member has served as staff counsel to the Board of Law Examiners, including representing the interests of the Board of Law Examiners in appeal hearings brought by bar applicants who have been denied admission to practice law.

3) Senior Judge Program

Since 1989, Indiana has been able to tap into an experienced pool of former judges to help alleviate the pressure of increasing caseloads. Enabling legislation provides that a former judge may apply to the Indiana Judicial Nominating Commission for certification as a senior judge under rules adopted by the Indiana Supreme Court. The legislation further provides that any trial court and the Indiana Court of Appeals may request that the Indiana Supreme Court appoint a senior judge to assist that court. The Division administers the senior judge program.

In 2003, the Indiana Supreme Court developed a comprehensive set of standards for the certification, service, appointment and payment of senior judges. This rule enables the Supreme Court to allocate senior judge time to courts with the heaviest caseloads while still allowing all courts to have sufficient senior judge help (a minimum of 10 days per year) to relieve trial judges during necessary absences from the bench.

The Division's administration of the senior judge program includes processing certification applications and

orders of certification, requests for appointments, weighted caseload comparisons and orders of appointment. The Division also administers senior judge benefits and processes claims for payment of per diem expenses.

Small at first, the Indiana senior judge program has grown into an invaluable resource of seasoned judicial officers who serve at minimal cost to the state and no cost to the counties. In 2005, Indiana had 90 certified senior judges who served a total of 3,741 days. These days are equivalent to approximately 15 1/2 full-time judicial officers.

4) Helping Courts Amend, Renumber and Post Local Rules

At the request of its Committee on Rules of Practice and Procedure, the Indiana Supreme Court initiated a project designed to ensure that local court rules are readily available to practitioners, litigants, and the public, and to bring uniformity to the local rule numbering and amendment process. Local rules, historically available mainly on the courthouse bulletin board, are now published on the Internet at the official website of the Indiana Judiciary.

The initiative was spearheaded by a special Local Rules Committee, Chaired by Appellate Court Judge, Margaret Robb. After extensive research and study of existing local rules, the committee recommended and the Supreme Court approved a significant amendment to the way trial courts promulgate local rules. The new amendments to Trial Rule 81 took effect on January 1, 2005. Trial Rule 81 provides that local court rules must be transmitted to Division and local clerks for posting on their respective websites. The amended rule also charged the

Division with certain duties regarding the promulgation of local court rules. One duty was to establish and publish a uniform annual schedule for the adoption of, and amendments to, local rules. A second duty was to create a standard format for drafting, amending, and numbering local rules. The Division accomplished this in March 2005, and after receiving comments and suggestions from the trial courts, filed a Second Amended Schedule and Format for Adoption of Local Court Rules in November 2005.

As of January 2006, most of the counties had submitted their local court rules, which have been posted on the Indiana Judicial website. Effective January 1, 2007, all courts of record in a county must use one set of local rules and must renumber all existing local rules in order for such rules to continue to be effective.

During 2005, the Division legal staff provided assistance to most of the trial courts in posting, amending and renumbering their local rules. The effort continues with the goal being to have 100% of all local rules appropriately numbered and posted on Indiana's judicial website.

5) Temporary Judicial Service

The Division oversees several programs for temporary judicial services.

Private Judges. The Indiana Legislature has provided by statute that, in certain circumstances, litigants can agree to try certain civil cases before a private judge who is compensated by the litigants (I.C. § 33-13-15-1 et seq.). The Division maintains a roster of private judges and administers requests and appointments of private judges.

A person who is not currently a judge of a circuit, superior, criminal, probate, municipal, or county court, but who has served as a judge for at least four (4) consecutive years may serve as a private judge. A private judge must be admitted to practice law in Indiana and be an Indiana resident. A former judge who wishes to serve as a private judge must register with the Executive Director of the Division. The Executive Director compiles and periodically updates a list of registered private judges that is made available to the public.

Parties to an action that qualifies who wish to have it heard by a private judge must submit a written petition to the Executive Director requesting a private judge and naming the judge. The Executive Director verifies that the former judge is qualified as required by the statutory provisions and then forwards the petition to the selected private judge.

The parties then obtain and file the written consent of the private judge in the court where the case is filed. The parties may present the petition and consent either contemporaneously with the filing of the case in the trial court or after the case has been filed. The regular judge of the court in which the case is filed actually appoints the private judge.

The parties pay a private judge. The compensation contract must include terms for compensation of all personnel and the costs of facilities and materials as determined by the Clerk of the Circuit Court. Requests for private judges are rare, with the first one taking place in 2004 and another in 2005. For the most current list of registered private judges look on the judicial website at www.in.gov/judiciary/admin/private-judges/roster.

Judge *Pro Tempore*. Indiana law allows a judge *pro tempore* (temporary judge) to sit in the place of a regular judge who is unavailable. Indiana Trial Rule 63 makes provisions for local appointments and also for appointments of such judges by the Supreme Court in cases where the sitting judge is either disabled or unavailable to serve as judge. The Division is responsible for administering requests for judges *pro tempore* and preparing the orders appointing them. In 2005, the Supreme Court made 12 such appointments. The circumstances surrounding these appointments range from absences due to military service, temporary medical conditions, and vacancies created by retirement or death that exist until the governor fills the vacancy.

To be appointed a judge *pro tempore* the individual must be an attorney in good standing with the bar of the Indiana Supreme Court. The judge *pro tempore* has the authority of the judge that is being temporarily replaced, subject to the continuing jurisdiction of the Supreme Court.

6) Civil Legal Aid Fund

Since 1997, the Division has administered the distribution of a \$1 million annual appropriation from the Indiana General Assembly to aid qualified organizations providing legal assistance to indigent persons in civil cases. In 2005, the Division made distributions to eleven organizations providing civil legal aid services to Indiana's poor. These eleven organizations provided services to over 23,000 clients. Distributions are based upon an analysis of each county's civil caseload as it relates to the civil caseload for the entire state, and the

number of organizations serving each county.

Data collected in 2005 indicates that the vast majority of cases handled by these providers continues to involve domestic relations matters such as divorce, separation, custody, visitation, paternity, termination of parental rights, and spousal abuse.

7) Court Improvement Grant

The Indiana Supreme Court continued its Court Improvement Program in 2005 under the leadership of its Court Improvement Executive Committee. The federal grant funds maintaining the Program are earmarked for improving the system for abused and neglected children in foster care. The Division serves as the fiscal administrator of the funds, while the Indiana Judicial Center provides substantive program administration.

Although the purpose and overall framework of the project are set by the U.S. Department of Health and Human Services and the American Bar Association's Center on Children and the Law, the Supreme Court and the members of the Executive Committee have guided the direction of the Indiana program. During the initial phase of this multi-phased project, the Executive Committee identified priorities, including placing CHINS cases on a fast track, developing court technology, education and training, family courts, pre-hearing facilitation, and service coordination and delivery. In the second phase, eighteen county-level programs aimed at expediting CHINS cases were implemented. During the third phase, efforts were focused on more comprehensive improvements in the delivery of services to children in the

more populous counties of Allen, Lake, Marion, Elkhart and St. Joseph. In the fourth phase, funding was provided to assist in the design of two Family Court Pilot Projects. The projects, located in Putnam and Porter counties, use mediation or facilitation services in family court cases with CHINS involvement.

During the project's fifth phase in 2002, eight counties were given funding to replicate successful programs developed in the large counties during phase three. These include pre-hearing facilitation in CHINS cases, case manager services, and family court projects. These projects continued into early 2003, with several obtaining grant extensions through 2003 and into 2004. The Executive Committee also authorized \$50,000 per year for technology to track cases involving neglected and abused children.

In 2004, the Executive Committee agreed to provide \$60,000 per year for two years to the Indiana Supreme Court Family Court Pilot Project, which had expanded into seventeen counties. CHINS facilitation projects and service referral centers also received continued funding. A new grant was provided to Marion County, the state's largest county, to compensate a part-time judicial officer who heard backlogged termination of parental rights cases.

Beginning January 1, 2006, three grants were awarded: the Family Court Project will receive \$60,000 per year for two years to allow continued expansion throughout the state; the Vanderburgh Superior Court has received \$25,000 to continue its Parents' Drug Court Program; and the Porter County Family Court has received \$20,000 to continue its CHINS facilitation program.

The Indiana Supreme Court anticipates that the innovative programs developed through this grant funding will continue to markedly improve the delivery of services to Indiana's children.

8) Communication Link with Judges and Clerks

The Division staff continues to provide a communication link with the trial courts, clerks and their staffs through a quarterly newsletter, the *Indiana Court Times*, and routine e-mail communications. The Division maintains an updated e-mail directory for all judges and magistrates and provides JTAC-funded email service for courts and clerks who cannot fund it.

Technology

1) Trial Court Technology and Automation

During 2005, the Indiana Supreme Court Judicial Technology and Automation Committee (JTAC), staffed by the Division, made significant decisions regarding its flagship project: providing Indiana trial courts and clerks with a statewide, connected Case Management System (CMS). The system will link trial courts with each other and with other users of judicial information, such as Indiana's State Police, Department of Revenue, Department of Corrections, as well as the general public and other stakeholders. It is the largest technology project ever undertaken by the Indiana Supreme Court.

The Committee, which is chaired by Justice Frank Sullivan, Jr., was created by Supreme Court administrative rule to assess information technology needs and develop a long-range implementation strategy for Indiana's judicial system. In 2005, JTAC's relationship with its previous project vendor, Computer Associates, was

mutually ended with a complete refund to JTAC of all monies paid to the vendor for this project. Because of the project's importance and the significant advancements in case management technology since the process began, the Committee's Statewide Governing Board and stakeholder group recommended to the Court to continue the project and advertise for replacement vendors.

Many states are now following the same path toward creating a statewide system that Indiana began in 2002. As part of the review process for finalist vendors, JTAC representatives, clerks, judges and other experts have traveled to states where a vendor's product is in use to assess its functionality in actual practice.

While the CMS project remains JTAC's highest priority, 2005 was a groundbreaking year for several other JTAC initiatives aimed at helping courts and clerks to better serve the public – and justice. JTAC's Jury Pool Project was completed in 2005 to both state and national acclaim. In the past, only 60 to 80 percent of eligible jurors were

included in county jury pool lists. This project, completed with the help of partners and state agencies, created the most inclusive and diverse jury pool ever available for each county – with more than 99 percent of all eligible jurors included. It was provided to all counties free of charge.

JTAC also received a \$1 million federal grant to help counties meet new federal requirements for reporting serious violations by commercial driver license holders. The new rules required that these violations be transmitted and entered into BMV records within 10 days of the conviction or judgment date, yet thousands of forms were still being mailed or faxed by the courts to the BMV, necessitating manual data entry. As a result, the majority of violations were not being entered into the records within the mandated time period. In addition to facilitating the electronic transmission of conviction information from courts with existing local case management systems, JTAC created a secure, web-based application that allowed counties to send the information electronically several times a day, saving time, effort and money at both the state and local levels. JTAC staff made hundreds of visits to local court and clerk offices to assess their needs and provide training.

The Court's website, which JTAC maintains, continues to be a vital source of court information. The site had 15 million hits in 2005, and was named #1 in the country in a national court

competition and #3 in an international court competition.

2) Appellate Court Automation and Technical Services

The Technical Services Section of the Division provides daily computer operations support to all appellate level courts and their adjunct agencies, and strives to keep pace with advancing technology for all of the populations it serves. In 2005, justices, judges, and staff were provided secure, remote access at home and when traveling. Also in 2005, Technical Services provided enhanced connections with other state agencies including the State Budget Agency, the State Auditor's Office, the Department of Personnel, and the Department of Administration.

This year also saw many enhancements to the online presence of the appellate-level judiciary. A newly designed website now allows attorneys to complete their annual registration and the payment of registration fees entirely through the Internet. Through the same application, attorneys may also update their addresses and may view their continuing legal education hours. Another technology enhancement launched in 2005 enables attorneys to view Continuing Legal Education course offerings online. The staff deployed two new web servers and migrated a program for completing quarterly caseload status reports online to a more robust server.

Commissions and Committees – Staff Support

1) Judicial Nominating Commission/ Indiana Commission On Judicial Qualifications

Pursuant to I.C. § 33-24-6-3(4), the Division provides legal and administrative staff support to the Indiana Commission on Judicial Qualifications and the Indiana Judicial Nominating Commission. The Qualifications Commission investigates and prosecutes allegations of ethical misconduct by Indiana judges, judicial officers, and candidates for judicial office. Commission staff is available to advise judges and others about the Code of Judicial Conduct, and the Commission periodically issues formal advisory opinions about judicial ethics. The Nominating Commission selects the Chief Justice of Indiana from among the five Justices, and it solicits and interviews candidates for vacancies on the Indiana Supreme Court, the Indiana Court of Appeals, and the Indiana Tax Court. The Nominating Commission also certifies former judges as Senior Judges.

A more detailed report about the Commission, its members and activities is published in the Indiana Supreme Court Annual Report, and may be found at www.IN.gov/judiciary/jud-qual.

2) Rule Amendments and the Supreme Court Committee on Rules of Practice and Procedure

The Executive Director of the Division serves as Executive Secretary of the Indiana Supreme Court Committee on Rules of Practice and Procedure and, together with Division

legal staff, assists the Committee and the Supreme Court in drafting and promulgating amendments to the Indiana Rules of Court.

The most prominent rule amendments adopted by the Court in 2005 dealt with: 1) amending the Jury Rules to provide for selection of jury pools from lists approved by the Supreme Court, rather than only voter registration lists; 2) amending Ind. Trial Rule 56 to make summary judgment hearings mandatory only when a timely request for a hearing is made; 3) amending Ind. Admission and Discipline Rule 23 § 21(k) regarding the procedures for a lawyer to permanently withdraw from the practice of law; and 4) amending Ind. Administrative Rule 1 to require that the courts in each county adopt caseload allocation plans on a regularly scheduled basis.

During 2005, among other issues, the Committee also devoted substantial time to studying proposals regarding attorney surrogates, registration of paralegals, and appeals of class action certification issues. The Committee also conducted preliminary discussions with representatives of the State Bar Association, the Attorney General's Office and the Prosecuting Attorneys Council regarding possible changes to Ind. Admission and Discipline Rule 24 addressing the unauthorized practice of law. Further, the Committee was asked to consider a change to the briefing schedule for appeals from the Tax Court. The Committee is working with Tax Court Judge Fisher on this proposal.

3) Public Defender Commission

The Division is responsible for providing staff support to the Indiana Public Defender Commission. The Commission sets standards for indigent defense services in non-capital cases and recommends standards to the Indiana Supreme Court for application in capital cases. The Commission is comprised of 11 members: three members are appointed by the Governor; three members are appointed by the Chief Justice; one member is appointed by the Indiana Criminal Justice Institute; two are members of the House of Representatives appointed by the Speaker of the House; and 2 are members of the Senate appointed by the President *Pro tempore* of the Senate.

In capital cases, counties receive reimbursement for 50 percent of eligible expenses. In other criminal cases, counties that qualify by meeting certain standards receive up to 40 percent reimbursement of indigent criminal defense costs. Through this system of reimbursement, the Legislature and the Supreme Court intend to encourage counties to provide qualified indigent defense in criminal cases.

In 2005, appropriations to the Public Defense Fund, which is non-reverting, totaled \$10 million. As of the time of this report, 53 counties have comprehensive plans approved by the Commission for delivery of indigent services. Over 60 percent of the state's population resides in counties eligible to receive reimbursements in non-capital cases under the program.

The entire Commission meets quarterly and reviews claims submitted by counties for eligibility and compliance with statewide standards. In fiscal year 2005, the Commission disbursed

\$9,345,337 for non-capital cases and \$499,488 for capital cases. Additionally, \$125,003 and \$2,094,797 were approved for the fourth quarter of the fiscal year for capital and non-capital cases respectively. These disbursements were paid in the 2006 fiscal year.

4) Indiana Conference for Legal Education Opportunity (CLEO)

The Indiana Conference for Legal Education Opportunity (Indiana CLEO) program began as a vision of the Chief Justice to change the landscape of the Indiana legal and professional community to reflect Indiana's diversity. When the legislation for the Indiana CLEO program was passed in May 1997, Indiana became a leader in acting to diversify its legal and professional communities. The Indiana CLEO enabling legislation provides that the Division administer the program. Indiana CLEO continues to advance the aspiration of Chief Justice Shepard to increase the number of Indiana attorneys who come from minority, low-income and educationally disadvantaged backgrounds.

The six-week Summer Institute is the starting point and cornerstone of the Indiana CLEO program. The Summer Institute is designed to prepare its participants for the rigors of law school by providing concentrated classroom instruction and practical legal applications. The Summer Institute also offers the opportunity to form a network with Indiana legal professionals and law students to assist CLEO Fellows once law school begins in the fall.

Indiana CLEO offers many programs that have helped past Indiana CLEO Fellows succeed in academics, acquire legal training and pass the Indiana bar

exam. Indiana CLEO sponsors academic support programs and workshops for Fellows throughout the academic year; partners with the Indiana State Bar Association's Committee for Racial Diversity in the Legal Profession to provide a summer jobs program, known as Gateway to Diversity; and, collaborates with the Indianapolis Bar Association to offer a supplemental bar exam preparation program known as Preparing Accomplished Students for Success on the Indiana Bar Exam (PASS).

Indiana CLEO Fellow graduates have gone on to work as deputy prosecutors, public defenders, deputy attorneys general, private practice attorneys, solo practitioners, corporate counsel, executive directors, judicial law clerks, JAG officers, law school admissions directors, and human resource directors. Indiana CLEO will continue to change the landscape of the Indiana legal and professional community by educating and nurturing Indiana CLEO Fellows for years to come.

5) Commission on Race and Gender Fairness

Committed to the fundamental principle that every litigant is entitled to equal access and fair treatment in our courts, the Supreme Court created the Commission on Race and Gender Fairness in 1999 to examine issues involving race and gender fairness in Indiana's judicial system. The Court assigned the Division the duty of providing the necessary staff support to the Commission. Commission members include representatives of Indiana's judiciary, bar, state and local governments, and public organizations.

Former Indiana Supreme Court Justice Myra Selby and Indiana Court of Appeals Judge Ezra Friedlander co-chair the Commission.

After three years of research, the Commission submitted its Executive Report and Recommendations to the Indiana Supreme Court on January 2, 2003. The Commission made recommendations in five specific areas in this report: Makeup of the Profession; Language and Cultural Barriers; Criminal and Juvenile Justice; Civil, Domestic and Family Law; and Employment. After review, the Supreme Court approved the majority of the recommendations on November 26, 2003, and asked the Commission to set priorities for implementing those. The Supreme Court has already implemented the Commission's first recommendation – establishing a foreign language certified court interpreter program in Indiana. Since that time, the Commission has prioritized the remaining 29 recommendations and continues to implement these.

During 2005, the Commission hosted Diversity Summit 2005 on October 14-15, 2005, at the Madame Walker Theatre and Indiana University Law School – Indianapolis. The Summit's keynote speaker, entertainer Harry Belafonte, drew a large and admiring crowd. Approximately 175 individuals attended, representing members of the judiciary, law schools, bar associations, law enforcement, and the general public. Summit sessions addressed: Prosecutorial Discretion, Jury Trends and Innovation, Recruiting and Retaining Minority Law Enforcement Officers, Improving Diversity in Legal Education, Business Case for Diversity, International Community's Access to the

Courts, Juvenile Ethnic Gangs, Urban vs. Rural Sentencing, and Social Consciousness and Sexual Orientation.

Also in 2005, Division Staff helped the Commission produce videos and DVDs in Spanish, with English subtitles, explaining to accused individuals their constitutional rights and possible penalties that they may face. Certified Spanish interpreters translated the scripts for and appeared in the videos and DVDs. The videos and DVDs were distributed to Indiana judges for use for the initial hearings of Spanish-speaking individuals. In addition to the continued implementation of its recommendations, the Commission is currently examining the demographics of the legal profession through a study that the Commission plans to publish.

6) Indiana Project on Self-Represented Litigants – Pro Se Committee

Since 2000, the Division has helped the Indiana Supreme Court Pro Se Advisory Committee maintain a Self Service Center on the judicial website and help trial courts and their staffs respond to the growing numbers of self-represented litigants. The Pro Se Advisory Committee consists of judges, court clerks, community members, librarians, attorneys, and other service providers.

The Self-Service website (found at www.in.gov/judiciary/selfservice) provides pleading forms for unrepresented parties to use in certain simple proceedings and appropriate instructions.

7) Supreme Court Records Management Committee

See Information/Records Management section under Trial Court Management.